

for the agency to determine whether it should institute such a contested case proceeding. After the commencement of a contested case, each agency having power to decide contested cases shall have authority to administer oaths and to issue subpoenas in such cases. Discovery procedures applicable to civil actions shall be available to all parties in contested cases before an agency. Evidence obtained in such discovery may be used in the hearing before the agency if that evidence would otherwise be admissible in the agency hearing. Agency subpoenas shall be issued to a party on request and shall not be subject to the distance limitation of section six hundred twenty-two point sixty-six (622.66) of the Code.

On contest, the court shall sustain the subpoena or similar process or demand to the extent that it is found to be in accordance with the law applicable to the issuance of subpoenas or discovery in civil actions. In proceedings for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in cases of willful failure to comply.

Sec. 21. Section eighteen point ninety-seven (18.97), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

The superintendent of printing shall make free distribution of the Code, supplements to the Code, rules of civil procedure, rules of appellate procedure, supreme court rules, the Acts of each general assembly, and, upon request, the Iowa administrative code, its supplements, and the Iowa administrative bulletin as follows:

Approved June 27, 1978

CHAPTER 1025

ADMINISTRATIVE RULES

H. F. 2099

AN ACT relating to the publication of administrative rules.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section seventeen A point four (17A.4), subsections one (1), four (4), and five (5), Code 1977, are amended to read as follows:

1. Prior to the adoption, amendment, or repeal of any rule an agency shall:

a. Give notice of its intended action by submitting two copies of the notice to the Code editor to be published in the "Iowa Administrative Code Bulletin" created pursuant to section 17A.6. Any notice of intended action shall be published at least thirty-five days in advance of the action. The notice shall include a statement of either the terms or substance of the intended action or a description of the subjects and issues involved, and the time when, the place where, and the manner in which interested persons may present their views thereon.

b. Afford all interested persons not less than twenty days to submit data, views or arguments in writing. If timely requested in writing by twenty-five interested persons, by a governmental subdivision, by the administrative rules review committee, by an agency, or by an association having not less than twenty-five members, the agency must give interested persons an opportunity to make oral presentation according to agency rules which give the public not less than twenty days notice of the time when and the place where oral presentation may be made, and which provide for the presentation prior to agency action on the rule which is the subject of the proceeding. The opportunity for oral presentation must be held at least twenty days after publication of the notice of its time and place in the Iowa administrative bulletin. The agency shall consider fully all written and oral submissions respecting the proposed rule. Within one hundred eighty days following either the notice published according to the provisions of subsection 1, paragraph "a" or within one hundred eighty days after the last date of the oral presentations on the proposed rule, whichever is later, the agency shall adopt a rule pursuant to the rule-making proceeding or shall terminate the proceeding by publishing notice of termination in the Iowa administrative code bulletin. If requested to do so by an interested person, either prior to adoption or within thirty days thereafter, the agency shall issue a concise statement of the principal reasons for and against the rule it adopted, incorporating therein the reasons for overruling considerations urged against the rule.

c. Upon the request of at least two members of the administrative rules review committee publish in the Iowa administrative code bulletin an estimate of the economic impact of the a proposed rule adoption, amendment, or repeal

upon all persons affected by it and upon the agency itself. If the agency determines that such an estimate cannot be formulated the reasons for impossibility of formulation shall be published instead of the estimate. An estimate shall be published at least fifteen days in advance of the adoption, amendment or repeal of the rule. In the case of a rule issued under subsection 2 or made effective under the provisions of section 17A.5, subsection 2, paragraph "b", an estimate, or the reasons for the impossibility of formulating an estimate shall be published within ~~thirty~~ forty-five days of the request.

4. a. If the administrative rules review committee created by section 17A.8 or the attorney general finds objection to all or some portion of a proposed rule because that rule is deemed to be unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the agency, the committee or attorney general may, in writing, notify the agency of the objection prior to the effective date of such a rule. In the case of a rule issued under subsection 2, or a rule made effective under the terms of section 17A.5, subsection 2, paragraph "b", the committee or attorney general may notify the agency of such an objection within seventy days of the date such a rule became effective. The committee or the attorney general shall also file a certified copy of such an objection in the office of the secretary of state within the above time limits and a notice to the effect that an objection has been filed shall be published in the next supplement-to issue of the "Iowa-Administrative-Code" Iowa administrative bulletin and in the Iowa administrative code when that rule is printed in it. The burden of proof shall then be on the agency in any proceeding for judicial review or for enforcement of the rule heard subsequent to the filing to establish that the rule or portion of the rule timely objected to according to the above procedure is not unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to it.

b. If the agency fails to meet the burden of proof prescribed for a rule objected to according to the provisions of paragraph "a" of this subsection, the court shall declare the rule or portion of the rule objected to invalid and judgment shall be rendered against the agency for court costs. Such court costs shall include a reasonable attorney fee and shall be payable by the state comptroller from the support appropriations of the agency which issued the rule in question.

5. Upon the vote of two-thirds of its members the administrative rules review committee may delay the effective date of a rule seventy days beyond that permitted in section 17A.5, unless the rule was promulgated under section 17A.5, subsection 2, paragraph "b". This provision shall be utilized by the committee only if further time is necessary to study and examine the rule. Notice of an effective date that was delayed under this provision shall be published in the Iowa administrative code and bulletin.

Sec. 2. Section seventeen A point five (17A.5), subsection two (2), unnumbered paragraph one (1), Code 1977, is amended to read as follows:

Each rule hereafter adopted is effective thirty-five days after filing, as required in this section, and indexing and publication ~~as required by section 17A.6,~~ in the Iowa administrative bulletin except that:

Sec. 3. Section seventeen A point six (17A.6), Code 1977, is amended by adding the following new subsection:

NEW SUBSECTION. The Code editor shall cause the "Iowa Administrative Bulletin" to be published in pamphlet form at least every other week containing the following:

- a. Notices of intended action and adopted rules prepared in such a manner so that the text of a proposed or adopted rule shows the text of any existing rule being changed and the change being made.
- b. All proclamations and executive orders of the governor which are general and permanent in nature.
- c. Other materials deemed fitting and proper by the administrative rules review committee.

Sec. 4. Section seventeen A point six (17A.6), Code 1977, is amended to read as follows:

17A.6 PUBLICATION OF RULES.

1. The Code editor shall cause the "Iowa Administrative Code" to be compiled, indexed and published in loose-leaf form containing all rules adopted and filed by each agency ~~and notice of all proposed rule-making by each agency~~. The Code editor further shall cause loose-leaf supplements to the Iowa administrative code to be published ~~supplements to this publication~~ at least every other week ~~which supplements shall contain~~, in such a form that they may be filed in the appropriate places in the compilation, containing all rules and notice of proposed rules filed for publication in the prior two weeks. The Code editor shall devise a uniform

numbering system for rules and may renumber rules before publication to conform with the system.

2. The Code editor may omit or cause to be omitted from the ~~publication~~ Iowa administrative code or bulletin any rule the publication of which would be unduly cumbersome, expensive or otherwise inexpedient, if the rule in printed or processed form is made available on application to the adopting agency at no more than its cost of reproduction, and if the ~~publication~~ Iowa administrative code or bulletin contains a notice stating the specific subject matter of the omitted rule and stating how a copy thereof may be obtained.

3. ~~This publication, which shall be known as the "Iowa Administrative Code",~~ The Iowa administrative code, its supplements, and the Iowa administrative bulletin shall be made available upon request to all persons who subscribe to ~~it any of them~~ through the state printing division. Copies of this Code so made available shall be kept current by the division.

4. All expenses incurred by the Code editor under this section shall be defrayed under the provisions of section 14.22.

Sec. 5. Section seventeen A point eight (17A.8), subsection five (5), Code 1977, is amended to read as follows:

5. A regular committee meeting shall be held at the seat of government on the second Tuesday of each month. Unless impracticable in advance of each such meeting the subject matter to be considered shall be published in the Iowa administrative ~~code~~ bulletin. A special committee meeting may be called by the chairperson at any place in the state and at any time. Unless impracticable, in advance of each special meeting notice of the time and place of such meeting and the subject matter to be considered shall be published in the Iowa administrative ~~code~~ bulletin.

Sec. 6. Section seventeen point twenty-two (17.22), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The Iowa administrative code ~~shall~~ and bulletin may be distributed with each order for purchase of the Code ~~and the price set for the Code and administrative code as provided above shall include the cost of both the Code and administrative code.~~ However, the The Iowa administrative code or, its supplements, the Iowa administrative bulletin or the Code may be distributed separately. There shall be established ~~a price~~ separate prices for the Iowa administrative

~~code and a separate price,~~ for its supplements, for the Iowa administrative bulletin and for the Code. The price charged for the Iowa administrative code, ~~or its supplements or the Iowa administrative bulletin~~ shall represent the cost of compiling and indexing plus the amount charged for the printing and distribution ~~of the Iowa administrative code or its supplements.~~

Sec. 7. Section eighteen point ninety-seven (18.97), unnumbered paragraph one (1), Code 1977 Supplement, is amended to read as follows:

The superintendent of printing shall make free distribution of the Code, rules of civil procedure, rules of appellate procedure, supreme court rules, the Acts of each general assembly, and, upon request, the Iowa administrative code, its supplements, and the Iowa administrative bulletin as follows:

Sec. 8. This Act, being deemed of immediate importance, shall take effect and be in force from and after its publication in the Eldora Herald-Ledger, a newspaper published in Eldora, Iowa, and in The Record, a newspaper published in Cedar Falls, Iowa.
Approved April 17, 1978

I hereby certify that the foregoing Act, House File 2099, was published in the Eldora Herald-Ledger, Eldora, Iowa on April 25, 1978, and in The Record, Cedar Falls, Iowa on April 27, 1978.

MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1026

LEGISLATIVE OVERSIGHT BUREAU

H. F. 246

AN ACT creating a legislative oversight bureau and specifying its powers and duties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Chapter two (2), Code 1977, is amended by adding sections two (2) through seven (7) of this Act.

Sec. 2. NEW SECTION. INTENT. It is the intent of the general assembly to establish in the legislative branch of government the capability to independently and intensively review the performance of state agencies in operating the programs established by the general assembly, to evaluate their efficiency and effectiveness and to consider alternatives